


Quid Novi



VOL. VI NO. 20

MCGILL UNIVERSITY FACULTY OF LAW
FACULTE DE DROIT UNIVERSITE MCGILL

March 12, 1986
12 mars, 1986

NEW YORK, NEW YORK! A FIRST HAND VIEW OF COLUMBIA GRADUATE SCHOOL

by Richard Janda

Dateline

116th St. & Broadway, The Big Apple -- you may have heard about the exodus to New York -- all those McGill students lured by the prospect of big money, big cars, big rents, and big cockroaches. One firm alone - White & Case - has become a regular asylum for those fleeing Canada. But mixed in with those droves are a few McGill types (three, to be exact), who have come to meet the intelligensia at Columbia University. Two of them are subsequently going to White & Case, but let's leave that out of account.

The fellow writing this article is the law student

not going to White & Case or any other high-falutin', hard-drinking, brash or top-expense-account N.Y. firm. After some time in this heroically materialist city, I'm real happy to head home to a little town like Toronto where everybody knows everybody else and where people run after you if you drop litter. So I won't tell you about New York firms, and how to get an interview there. And in one fell swoop I've lost most of the small audience I had.

First let me say that, for all the challenge and stimulation offered by doing a graduate degree -- something I highly recommend to anyone -- I have come to appreciate McGill

more now from a distance. I appreciate our Faculty more because, for all our complaints, they are much more accessible than at Columbia. This is perhaps because a Columbian professor is a kind of star. To illustrate, when the present Dean left, that was news for the front page of the New York Times. And when the new Dean, Barbara Black (first woman Dean of a "major" American Law School) was appointed, that hit the front page again and merited a couple of follow-up articles. A faculty member is typically a former Commissioner in an Administration Agency, or present chief council to the State Department or a

Cont'd on p. 3

POLITICAL ECONOMY OF ENVIRONMENTAL HAZARDS

by Joseph Kary

Does government regulation of environmental hazards work? And can it be made to work? According to Ted Schrecker in a recent speech to the law school, Canadian governments have been largely ineffectual in protecting the public from industry-created health hazards.

Schrecker, a free-lance researcher and consultant, author of a recent Law Reform Commission of Canada Study in Political Economy of Environmental Hazards, described the way government agencies make regulatory decisions. Standards are set in consultation with industry without any public participation. Furthermore, the public has little access to government

research and information, and there is no requirement that decisions be made on the record. Even where legislation does provide for a public forum in which decisions are debated, the regulatory bodies merely defend positions previously arrived at, rather than inviting public input. The regulations that do

Cont'd on p. 7

ANNOUNCEMENTS

Attention 4th Year Class!

Anyone interested in appearing in the Class Composite must go down to Van Dyck Studios (1121 Ste. Catherine St. W.) no later than Friday, March 23rd to state your intention and pay. The cost is \$23.93 per person, tax included.

For those who had their picture taken for Old McGill '86 the same picture will be used for the composite.

For those who chose not to appear in Old McGill but who wish to appear in the composite, a picture will be taken of you at Van Dyck's at no extra cost.

This Class Composite being such a lasting souvenir, I hope no one will allow himself/herself to be left out.

Norman Dionne

Comparative Legal Systems Seminar

Several graduate students will give brief presentations on the basic constitutional law of West Germany, France and Canada. These will be followed by a general discussion of the three systems. Anyone interested is welcome to attend on Thursday, March 13, 3:00 p.m. to 5:00 p.m. at the Institute of Comparative Law, 3647 Peel Street, Room 101.

Squash Tournament

Let's go gang! Get this thing over with! Jill Samis and Francine Ducer, you have till week's end before a coin toss. Everyone else, play your quarter-final games! How long do we have to wait before you get moving?

Notice

Quebec Bar applications are now available at the Student Affairs Office. Application deadline:
15 April (New Bar Course)
2 July (Regular Course)

Talmud Class

Thursday, 1:00 p.m.
Room 204
Subject: Modes of Possession and Acquisition

Chuckle of the Week

What's the difference between a rooster and a lawyer?

A rooster clucks defiance.

If anyone has a tape of Professor Cotler's recent lecture on Schcharansky please see him immediately.

PLACEMENT CENTRE

Alberta

Guild, Yule, Lane, Sullivan, Mackenzie & Holmes have recently forwarded a copy of their Fact Sheet for 1987/88 Prospective Articling Students to the Placement Committee. A copy of this fact sheet has been posted in the Centre. Refer to Posting # 71.

Ontario

On June 1, 1986, the firm of McGuire & Mills, Ottawa, will commence the process of interviewing articling candidates for the 1987/88 term. They have one position available. Serious candidates

should furnish a C.V. with the addresses of three references and should enclose a law school transcript with their applications. For full particulars, please refer to Posting #69.

Quebec

De Grandpré, Godin, Paquette, Lasnier & Alary have openings for third year students for summer positions and also third year students who will be finishing their Bar School in May 1987. Interested students should forward their C.V.'s and academic results to date before March 5 to:

Me. Yves Poirier
de Grandpré, Godin,
Paquette, Lasnier & Alary
25e étage, Tour de la
Bourse
800 Place Victoria
C.P. 108
Montréal (Québec)
H4Z 1C2

Refer to Posting #72.

Stikeman, Elliott is currently recruiting for the 1989 articling program and are anxious to review as many applications for the firm as soon as possible as interviews will be conducted during the month of March. Please forward C.V.'s and academic

Cont'd on p. 3

New York Cont'd from p. 1

former head of the National Association for the Advancement of Coloured People. Imagine a faculty full of people like Irwin Cotler (whose role in the Shcharansky case got its deserved recognition on national television here, making me proud to be a McGill graduate). But the Upstairs/Downstairs phenomenon is at such a point at Columbia that the Dean set aside a budget available to all professors to take students out to lunch on the theory that more contact was needed.

The second factor at McGill I've come to appreciate more is the student body. Columbia was a school closely associated with the New Deal and its Faculty is still quite liberal. The students, on the other hand, seem zombie-like in their Wall Street fixation. To illustrate: the one section of the basic Administrative Law course has an enrolment of 35. The one section of a "specialized" course called "Securities Market Regulation" has an enrollment of over 200. Even allowing for the popularity of professors, it's striking. And when a student argues, for example, that there's nothing so bad about insider trading -- why not just deregulate the thing -- people murmur in agreement

or take it to be an obvious and uncontroversial position. There are token people interested in anti-apartheid campaigns and human rights. But they are overwhelmed in the general uniformity.

Furthermore, there is a pathological obsession among all first year students about making the Law Review. One second year student told me that after he didn't make Law Review he knew his life was permanently marked for the worse because he'd never get a job at the "best" Wall Street firms, he'd never be appointed as a Federal Judge, and he'd never be able to teach at a top Law School. There are no less than six "consolation prize" Law reviews for underachievers. Competition in first year seems fierce if not ruthless. There are many more horror stories than I ever heard at McGill. And in upper years, there is marked apathy. The professor started an upper year course by saying, "Look, either you already have a job, or it's too late. So let's not worry about marks and let's be relaxed -- if you show up." On the other hand, students are generally much better prepared and aggressive in their participation when called upon. I don't sense that they are smarter than the McGill class, they're simply more intense and assertive.

So, on the balance, I've come to appreciate more the accessibility of our Faculty and its level of caring about individual students. I've also come to appreciate the diversity and closeness of McGill's student body. Furthermore, we have professors at McGill whose classes rank more favorably with those at Columbia, and there are some Columbian professors who give classes just as bad, apparently, as some bad classes at McGill.

On my part, I've been very lucky in and happy with my classes. The resources of the place -- people and information -- are astounding, and my thesis supervisor, for example, has been delightfully attentive. The theoretical level of inquiry is generally high. One can, in short, get an excellent education. I think a Master's Degree can round out one's legal training by allowing the student to work on a legal problem in greater depth and in a necessarily more academic setting.

And, of course, if one goes to the United States, a country with some slight influence in Canada, one gets a foreign perspective. Besides, being in New York is great -- it's a place I plan to visit often, if only to throw some change to the homeless.

Placement Cont'd from p. 2

records to:
Mr. Guy Masson
Stikeman, Elliott
1155 Dorchester Blvd., W.,
#3900, Montreal,
Quebec, H3B 3V2
Refer to Posting #74.

Students expecting to complete their third year of law studies this May are invited to submit application to Gasco, Linteau & Grignon. Applications should be sent to Mr. Claude Laporte, Gasco, Linteau, & Grignon, Suite 1750, 500 Place d'Armes, Montreal, Quebec, H2Y 2W2. Refer to Posting # 75.

Miscellaneous

The United States Claims Court, Washington, D.C., will soon be considering candidates for their 1987/88 clerkships. Interested students should refer to Posting #70 for complete details regarding this clerkship.

Quid Novi is published weekly by students at the Faculty of Law of McGill University, 3644 Peel St., Montreal H3A 1W9. Production is made possible by support of the Dean's office and by direct funding from the students. Opinions expressed are those of the author only. Contributions are published at the discretion of the editor and must indicate author or origin.

Editor-in-Chief Debra Raicek
Rédactrice-en-chef

Rédactrice française Brigitte
French Editor Catellier

Associate Editor Lisa
Rédacteur adjointe Steinberg

Financial Manager Peter Pamel
Administrateur

Production Manager Bettina
Directeur de gestion Karpel

Photography Hartland
Photographie Paterson

News Editor Janet Henchey
Rédactrice

Subscriptions David
Abonnements Patterson,
Donna McGraw

Staff
Membres Scott Turner, Gertie
Witte, Terry Pether,
Biljana Petrovic, Joani
Tannenbaum, Andrew Orkin,
Norman Perreault, Joseph
Kary, Linda Adams

Quid Novi est une publication hebdomadaire assurée par les étudiants de la faculté de droit de l'université McGill, 3644 rue Peel Montréal, H3A 1W9. La publication est rendue possible grâce à l'appui du bureau du doyen, ainsi que par le financement individuel des étudiants. Les opinions exprimées sont propre à l'auteur. Toute contribution n'est publiée qu'à la discrétion du comité de rédaction et doit indiquer l'auteur ou son origine.

EDITORIAL

RE: THE DAILY

by Andy Orkin and Debbie Raicek

Few readers, ourselves included, find the McGill Daily to be consistently digestible fare. The writing is frequently poor, the reporting sometimes inaccurate, and the editorial slant often the punk-left equivalent of the National Enquirer.

The current initiative to sack the entire editorial board, however, gives grounds for intense disquiet, not just because almost a third of the 200 signatures that launched the initiative were law students'. An essential corollary to freedom of expression and freedom of the press as we know it is editorial freedom. Plainly put, this is the freedom of the editorial unit, whether an individual or board, to determine content and a newspaper's "slant".

But, we are told by the initiative's organizer's we pay for the Daily, we own the Daily. We therefore have the power and right to sack the editorial board. This may, constitutionally, be the case. Editors should indeed be sackable. But what for? Simply, for gross dereliction of duty - not publishing regularly, for example, or for embezzlement. If such misconduct can be demonstrated at the Daily and fair procedure is followed - open allegations tested at an open hearing - by all means sack those responsible on the Daily board.

Some allegations have been made, in an anonymous leaflet prepared on one of the Law's Apple Macs. We are told that the staff is "grossly incompetent" and has shown "contempt" for students' concerns, that the paper is "racist, anti-semitic, one-sided...irresponsible." This being so, (although unsubstantiated in the leaflet) is the appropriate response sacking an entire board of volunteers?

We are told by the initiative organizers the paper is "undemocratic. It won't publish other points of view." Newspapers aren't supposed to be democratic vis-à-vis their readership. They are purveyors of news and comment with a view to influencing their readership in a certain tradition. They are neither newsletters, nor parliaments. If your paper is the Wall Street Journal, freemarket capitalism is the thrust. The Daily: founded by Stephen Leacock 75 years ago, a tradition of muckraking, youthful excess and left-wing polemics. And if the Daily is supposed to be internally democratic and for some reason is failing at it, enforce the rules or alter the constitution so that it is.

We all remember "All the President's Men," in which two intrepid journalists with their sleeves rolled up brought Nixon's presidency to an end. We should also remember that the owner of the Washington Post - the publisher, the equivalent of us for the Daily - and the administration tried to stop the editor from running the stories that were blowing Nixon out of the water. The editor asserted his editorial freedom to publish and be damned, and the rest is history.

This is a university. The Daily is a student paper. True, it is often disagreeable. Surely if we really believe in freedom of expression and freedom of the press, we should not be voting to end it with a Stalinist putsch, but rather joining the paper and changing it from within. We urge a No vote.

Cont'd on p. 6

DALHOUSIE LAW FACULTY EXPRESSES THANKS

This year the LSA Council voted to contribute \$150 to the Dalhousie Law Faculty in order to help them rebuild their library after the fire which ravaged the library. The following is a letter the LSA received from the Dean of the Dalhousie Law Faculty. Since the money is contributed by all LSA members, the gratitude expressed in the letter is addressed to all of you:

Re: Contribution to the Rebuilding of the Dalhousie Law School Library.

I have your letter of January 22nd and the enclosed cheque for \$150 from the McGill Law Students Association as a contribution towards the rebuilding

of the Dalhousie Law School Library. Please accept my thanks on behalf of my colleagues, Dalhousie Law students and on my own behalf. A gesture of this sort is particularly heart-warming.

As you probably know, all the reports, Canadian, American, English and Commonwealth, which were housed on the fifth floor of the Weldon Law Building were destroyed in the fire. The remainder of the collection, texts, journals, and rare books, were saved through the efforts of firemen, University staff and many volunteers, including many of our students who were in the city. They were wet and sooty but through quite an amazing process of freeze-drying have been put in quite usable condition and are mostly now re-shelved.

The Weldon Law Building itself is back in use for classes but the faculty offices and the library are housed on the 4th floor of the University's Killam Library. At the start of the forthcoming term faculty offices will be back in the Weldon Law Building and we will be launched on the building of a new library extension. That development will depend on the successful Capital Campaign among our alumni and the legal fraternity generally in Canada. In that context, it will be more useful than you may realize to be able to refer to the sort of spontaneous gesture that the McGill Law Students Association has made with this contribution. Once again, thank you very very much for this kindness.

Yours truly,
Innis Christie
Dean, Dalhousie Law School

PROGRAMME DE MAÎTRISE EN DROIT DE LA SANTÉ

Université de Sherbrooke

Depuis le mois de septembre 1982, l'Université de Sherbrooke offre un programme de maîtrise en droit de la santé.

Sans équivalent en Amérique du Nord, ce programme porte sur les divers aspects légaux, sociaux et administratifs du droit de la santé. Il comprend ainsi un enseignement dans les matières suivantes: introduction au droit de la santé; droit médical (responsabilité civile et pénale médicale - médecine moderne); organisation administrative du monde de la

santé; droit sanitaire international et législation comparée; droit du travail dans le secteur de la santé. Ces cours sont enseignés principalement par des professeurs de la faculté de droit de l'Université de Sherbrooke.

Le programme de maîtrise est ouvert aux bacheliers en droit ainsi qu'aux professionnels de la santé disposant d'un diplôme universitaire (Médecins, infirmières, administrateurs...). La réussite de la scolarité et la rédaction d'un essai conduisent à l'obtention de grade de Maître en droit (LL.M.).

DIPLOME DE DROIT

DE LA SANTÉ

Un diplôme de droit de la santé (D.E.S.) sera également offert dès septembre 1986. Il s'agit d'un diplôme de deuxième cycle comportant 30 crédits et basé sur les mêmes exigences de scolarité que la maîtrise.

Pour tous renseignements, prière de s'adresser au:

Directeur du programme
Maîtrise en droit de la santé

Faculté de droit
Université de Sherbrooke
Sherbrooke, QC,
J1K 2R1 (819) 821-7518

Law Partners

Law Partners Merit Award

Following the speech by the Honorable Monique Begin, the Law Partners will present its first annual Merit Award.

The award is to be "awarded annually when merited to individuals who have made an outstanding contribution to student life or Services in the Faculty of Law."

The presentation will take less than ten minutes and will be followed by a reception in the Common Room (Refreshments will be served) from 1:00 to 2:00 p.m.

The Program is taking this opportunity to accentuate and award the positive features of our Community. We would highly encourage everyone to take the short time required to join us in recognizing excellence.

Wednesday, March 12, 1986
1:00 p.m.

Moot Court - Presentation
Common Room - Reception

Law Partners-Guest Speaker The Honorable, Monique Begin

The Law Partners Program is pleased to announce that the Honorable Monique Begin, formerly Minister of Health and Welfare, Minister of Revenue, and Secretary to the Commission on the Status of Women has agreed to address the McGill Faculty of Law.

She has been asked to speak on two topics, wearing two hats. Specifically: as a sociologist she will speak about being one of the first women to enter the federal political scene, and being one of the first French Canadians to hold power in what was an Ottawa changing from being English to being bilingual; secondly, as a politician she will discuss the possibilities of adapting or changing a system once having become part of it.

Wednesday, March 12, 1986
12:00 to 1:00 p.m.
Moot Court

Law Partners-Growing Pains and Re-evaluation by John Relton

The Law Partners Program, conceived of, and brought into existence by this year's Orientation Committee is drawing to the close of its first year.

The Social Guides (yes, we'd like to find a better name for the members of the directing committee) have recognized many of the problems in this year's organization.

Amongst other things, being organized by the same committee handling Orientation, the Program got off to a slower start than any of us would have wished. That problem has been solved by the Social Guides now serving as a separate committee (reporting to the LSA President - with special thanks to Bettina Karpel for the support without which the Program would have died in the planning stages.)

Editorial

Cont'd from p. 4

On Vous Attend

par Brigitte Catellier et Debbie Raicek

Une autre semaine. Une autre pile d'articles. Et toujours rien en français. Le Quid Novi se dit une publication bilingue et pourtant, le contenu français de ce journal est en voie de disparition.

Cette année, huit des dix-huit publications ne comportaient que des articles en anglais. Dans les dix publications bilingues, douze articles étaient écrits en français, dont seulement trois par des étudiants qui ne font pas partie du personnel du Quid Novi. Quoi qu'ils n'étaient pas nombreux, les articles soumis étaient tous de qualité et il est dommage que nous n'en recevons pas plus souvent.

Nous réalisons que les francophones sont moins nombreux que les anglophones au sein de la faculté de droit et que la plupart des activités se déroulent en anglais. Toutefois, nous désirons lancer l'invitation à tous ceux qui désirent écrire des articles en français. Il y a de la place pour vous dans le Quid Novi, vous n'avez qu'à la prendre.

The intention from the outset was to try and recruit one half of the committee each year (half stays, half are new members) to ensure both continuity and constant, realistic self-evaluation. All students are invited to consider serving on the committee - especially first year students and those critical of this year's program.

Anyone interested in volunteering, or in further information, should leave a note at SAO with their name and telephone number to the Attention of Bob

Model U.N.

by John Relton

For a second year, the United Nations Association in Canada has organized a Model U.N. to take place here in Montreal, July 7-12, 1986

In 1985 high-ranking U.N. officials, such as the United Nations Assistant Secretary-General for Field Operational and External Support Activities and the Under-Secretary for Special Political Affairs attended. This year, other prominent members of the U.N. and the Canadian government as well as other internationally-known personalities will be in attendance.

While the Model U.N. is open to students from across Canada who participate in simulations of the General Assembly and of the Security Council, **Political Economy**
Cont'd from p. 1

exist are not effectively or consistently enforced because industry can afford to enter into extensive litigation to a much greater extent than poorly-financed regulatory agencies. The benefits of legal delaying tactics outweigh the benefits of compliance. The result is that society is faced with tacit law-breaking by large industry players such as the pulp and paper industry in Ontario.

A substantial hurdle in regulatory action is the heavy dependence of the

the simulation of the International Court of Justice is open to law students only. Last year, and again this year, the program took place at the International Civil Aviation Organization's Headquarters on Sherbrooke Street.

Law year's simulation saw law students (a high proportion of first year students) nervously arguing International Law before an embarrassingly impressive bench (chaired by Mr. Justice Deschênes, it also included Canada's representative to the Permanent Court of Arbitration at the Hague, the head of the Legal Bureau of ICAO and McGill's own Professor Magdelenat, of the Institute of Air and Space Law.)

Given a problem in international terrorism and Canadian economy on industry. One in ten Canadians live in a single-industry community as defined by the federal government. Companies can and do engage in "job blackmail", threatening to close down or move elsewhere when regulations are imposed. Partly as a result of such statements by industry, attempts to regulate companies like the Reid paper-mill in Dryden, Ontario, or the Noranda copper-smelter in Rouyn, lost much of their force. Legal measures do exist to prevent these kinds of threats (Schrecker mentioned an American case in which a corporation was placed in receivership to prevent it from moving its assets elsewhere) but such remedies are drastic.

hijacking, the participants were provided with the help of a Montreal lawyer who had served with the Department of External Affairs; as well we had a Bench which was understanding of our inexperience.

While there was no cost for last year's program because of extensive government grants, this year's program has a registration fee of \$25. The McGill International Law Society (MILS) is interested in sponsoring a team of four members.

If there are students who are interested, or would like further information, leave a note at SAO with your name and telephone number to the Attention of John Relton.

I, for one, participated last year, and intend to do so again this year.

Despite the current situation, Schrecker does believe that the law can serve as a vehicle for change. He argued that regulatory bodies have to be made subject to public scrutiny and accountable for their decision to the courts when they fail to fulfill their legislative mandates. Schrecker further mentioned with approval the citizen-suit provisions of American environmental legislation by which any individual can by-pass common law rules of standing to directly sue a polluter for violations of environmental statutes. If such measures are not taken in Canada, industry concerns will continue to thwart the public interest in a safe environment.

Answers to Crossword

ACROSS

- (1) Criminal
(7) She
(8) Leave

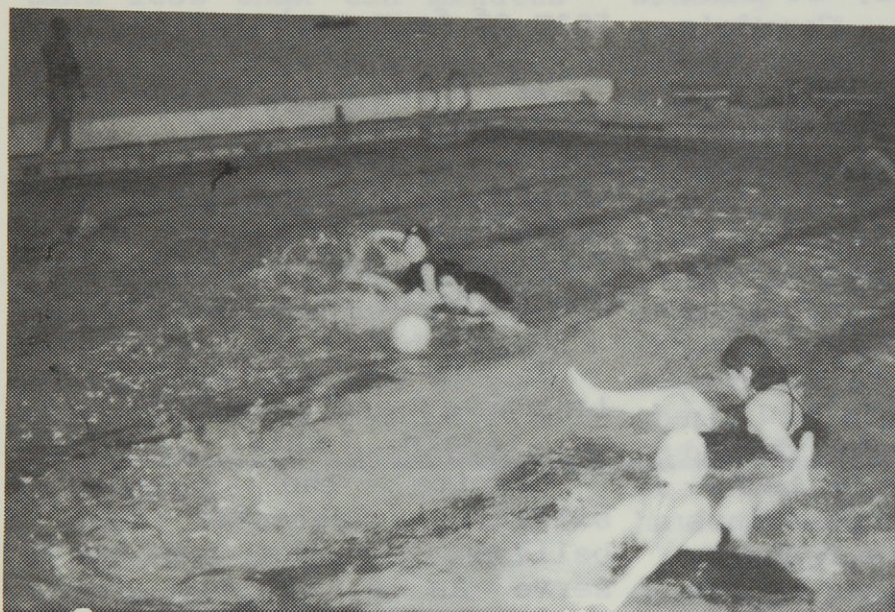
- (9) Enjoin
(10) Rolls
(11) Delisle
(12) Hypothec
(15) S.C.
(16) Lache

- (17) Youth
(20) Affidavit
(22) Exculpatory
DOWN
(1) Chancery
(2) Re

- (3) Morissette
(4) Nul
(5) Liable
(6) Trees
(10) Remedy
(12) Haldane
(13) Pacific
(14) Act
(15) Suit
(18) Heavy
(19) Camp
(21) I.B.T.



Career Options

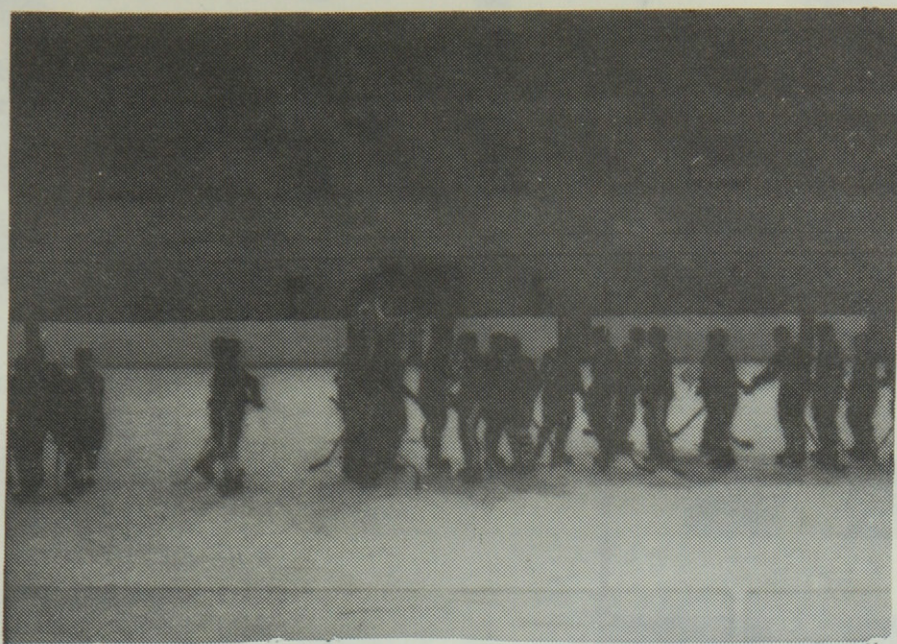


Esther Williams

OUR AT THE CANADA



Esther Williams, The Male Version



Youngblood

ATHLETES: LAW GAMES

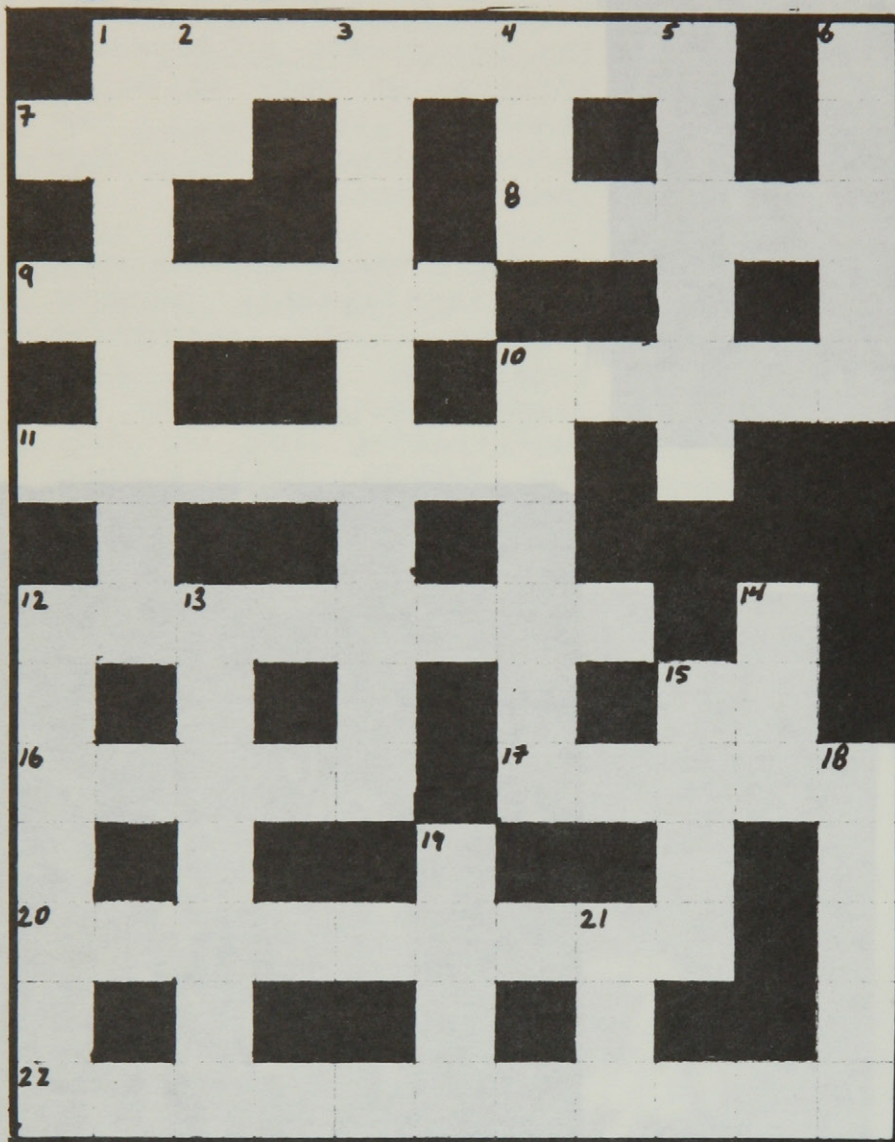


A Professorial Candidate



The A-Team

Law School Crossword



by Mark Hanchet
Answers on p. 7

ACROSS

- (1) Code
- (7) Wilson J. eg.
- (8) _____ to appeal
- (9) Prevent
- (10) Master of the
- (11) Criminal bible
- (12) Security
- (15) Court (abbrev.)
- (16) Omission to assert a right
- (17) Offenders Act target
- (20) Statement
- (22) Some clauses

DOWN

- (1) Equity
- (2) _____ Wait
- (3) Bow tie man
- (4) With "void" (variable spelling)
- (5) At fault
- (6) Estoppel case, High
- (10) Damages eg.
- (12) P.C. Meddler
- (13) Sealand of the
- (14) BNA eg.
- (15) Action
- (18) Legal workload
- (19) Athans opponent
- (21) Stevens subject (abbrev.)



"It's hardly sex discrimination just because I can't picture you as a topless waitress."



"Do you recognize this pan as the one your wife used?"